IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY THIRD DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 2682 of 2005

Between:

Arla Santaram, S/o.Appa rao,
K/G.Hospital, Visakhapatnam.

..... PETITIONER

AND

1 The Chief Medical officer of Health, Municipal Corporation, Visakhapatnam.
2 The Superintendent, K.G.Hospital, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction especially in the nature of writ of Mandamus declaring the action of the respondents 1 & 2 in not considering the representation dt. 2-2-2005 made by the petitioner to the 1st respondent for granting valid licence under sec.622 of the HMC Act r/w sec.7(1) of Visakhapatnam Municipal corporation Act 19/79 and illegally closing the canteen on 8-2-2005 by seizing the keys and throwing out the petitioner and their men from the job is illegal, arbitrary, contrary to the principles of natural justice and violative of Article 14 and 21 of the Constitution of India, consequently direct the respondents 1 & 2 to immediately handover the keys of the premises by allowing him to continue the canteen in the interest of justice and pass such other order or orders as this Hon'ble court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR. K.K. CHAKRAVARTHY

Counsel for the Respondent No.1: MR.T.S.VENKATARAMANA, S.C. for Visakhapatnam Municipal Corporation.

Counsel for the 2nd respondent : G.P. for Medical, Health & Family Welfare.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.2682 OF 2005

ORDER :

In pursuance of the Tender Notification dated 2-2-2000 issued by the 2nd respondent, the petitioner was granted a contract for running a canteen in the premises of the King George Hospital, Visakhapatnam in the name and style of Doctors' Canteen.

As can be seen from the affidavit filed in support of the writ petition, there are certain disputes with regard to payment of the lease amount as well as the period of lease and admittedly O.S.No.1687 of 2002 filed by the petitioner in the Court of the I-Addl. Junior Civil Judge, Visakhapatnam is pending and the order of Status Quo is subsisting.

Now, this writ petition is filed aggrieved by the action of the 1st respondent – The Chief Medical Officer of Health, Municipal Corporation of Visakhapatnam in locking the premises wherein the petitioner is running the canteen and threreby preventing him from carrying on his business.

Heard the learned Counsel for the petitioner and perused the material on record.

Admittedly, the petitioner was served with a notice under Sections 521 and 622 of Hyderabad Municipal Corporation Act read with Section 7(1) of Visakhapatnam Municipal Corporation Act 19 of 1979 (for short, 'the Act') dated 1-2-2005 issued by the 1st respondent stating that as per the complaints received on inspection by the officials of the Hospital as well as the Food Inspector and Assistant Medical Officer of Health of the Corporation, the petitioner was running the canteen in unhygienic and insanitary conditions and it was also found that he was carrying on his business without obtaining the licence under Section 521 of the Act and therefore directing him to close down the canteen immediately. The petitioners does not dispute the fact that he does not possess the licence as required under the provisions of the Act, however, states that being the owner of the premises, it is for the 2nd respondent to obtain such licence. At any rate, the petitioner states that he has already applied for such licence and his application is pending with the competent authority.

Since admittedly the petitioner does not possess the required licence as on today, I am unable to hold that the action of the 1st respondent in locking the premises of the canteen on 08-02-2005 in pursuance of the notice dated 1-2-2005 is either arbitrary or illegal particularly in view of the allegations made in the notice dated 1-2-2005 that the petitioner has been running the canteen in highly unhygienic conditions. Hence, the Mandamus as prayed for cannot be granted.

However, keeping in view the plea of the petitioner that his application for the licence under Section 521 of the Act is pending, the Writ Petition is disposed of

granting liberty to the petitioner to make an appropriate application before the 1st respondent, as soon as the licence, is granted to allow him to continue the canteen. If any such application is made on producing the required licence, the 1st respondent shall reconsider the matter and pass appropriate orders in accordance with law within one week from the date of receipt of application from the petitioner.

The Writ Petition is accordingly disposed of. No costs.

_____

23rd February, 2005.

gbs

To

1 The Chief Medical officer of Health, Municipal Corporation, Visakhapatnam.
2 The Superintendent, K.G.Hospital, Visakhapatnam.

3. Two CCs to G.P. for Medical, Health & Family Welfare, High Court of AP Bldgs, Hyderabad (OUT).

4) 2 CD copies